APPENDIX

STATEMENT OF THE PROCEDURAL BACKGROUND OF THE CASE BELOW

During the period commencing with the week ending October 14, 1939, and terminating with the week ending December 2, 1939, a labor dispute was actively in progress in the manufacturing establishment of the respondent Chrysler Corporation, resulting in the unemployment of the majority of its employees (Record pp. 10, 55, 188-9). Approximately 41,000 such employees, including the petitioners, filed claims for unemployment compensation benefits with the Michigan Unemployment Compensation Commission, pursuant to the provisions of the Michigan Unemployment Compensation Act (Act No. 1, Michigan Public Acts of 1936, extra session, as amended by Act No. 347, Public Acts of 1937 and by Act No. 324, Public Acts of 1939; Mason's 1940 Cumulative Supplement to the Compiled Laws of Michigan 1929, Secs. 8485-41 to 8485-103) (Record pp. 10-12, 55). On November 10, 1939, the Michigan Unemployment Compensation Commission issued its determination that all of such employees, including the petitioners, were disqualified for benefits by virtue of the provisions of Section 29(d) of the Michigan Unemployment Compensation Act (Record Vol. V, 2121-40).

This section reads in part as follows (Mason's 1940 Cumulative Supplement to the Compiled Laws of Michigan, 1929, Sec. 8485-69):

> "Sec. 29. *Disqualification for benefits.* An individual shall be disqualified for benefits:
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> "(d) For any week with respect to which his total or partial unemployment is due to a labor dispute which is actively in progress in the establishment in which he is or was last employed: Provided,

however, That no individual shall be disqualified under this section if he shall establish that he is not directly involved in such dispute. For the purpose of this section, no individual shall be deemed to be directly involved in a labor dispute, unless it is established:

* * *

"(2) That he is participating in or financing or directly interested in the labor dispute which caused the stoppage of work: Provided, however, That the payment of regular union dues shall not be construed as financing a labor dispute within the meaning of this subsection. * * *"

The petitioners and the great majority of the other employees, so disqualified, did not appeal from the determination of November 10, 1939, disqualifying them for benefits. Instead, due to the large number of claims, it was decided by the Michigan Unemployment Compensation Commission and by counsel for the employees that appeals from the determination of November 10, 1939, would be taken to the Referee of the Michigan Unemployment Compensation Commission by a selected group of employees (hereinafter referred to as the "representative claimants"), with a view to securing a decision which would govern all claims (Record pp. 12, 13, 55). After an extensive hearing before the Referee on the claims of the representative claimants, he issued his decision on February 21, 1940. This allowed the claims of certain of the representative claimants (which were in the same category as those of the petitioners) and affirmed the determination of the Commission in the disallowance of the remaining claims (Record, Vol. V, pp. 2272-2339). This allowance by the Referee of certain of the representative claims was affirmed on April 23, 1940, on appeal to the Appeal Board of the Michigan Unemployment Compensation Commission (Record, Vol. V, pp. 2352-2373).

The respondent, Chrysler Corporation, reviewed this decision of the Appeal Board in the Circuit Court of Ingham County, Michigan, pursuant to the provisions of Section 38 of the Michigan Unemployment Compensation Act (quoted on page 7 of this brief). That court filed its opinion on June 12, 1940, affirming the Appeal Board's decision allowing the claims of the representative claimants which were in the same category as those of the petitioners, and reversing the Appeal Board's decision in so far as it allowed certain other claims (Record, Vol. V, pp. 2394-2404). Appeals from the judgment of the Circuit Court, with reference to the claims of the representative claimants, were taken to the Michigan Supreme Court. The Michigan Supreme Court, on May 21, 1941, decided that all of the representative claimants, including those whose claims were in the same category as the claims of the petitioners, were disqualified for benefits under Section 29(d) of the Michigan Unemployment Compensation Act. *Chrysler Corporation v. Smith,* 297 Mich. 438.

On April 24, 1940, when the respondent Chrysler Corporation instituted the proceeding in the Circuit Court of Ingham County, Michigan, to review the decision of the Appeal Board on the claims of the representative claimants, an order staying proceedings and payment of unemployment benefits had been entered. By this order the Michigan Unemployment Compensation Commission, its Referee and the Appeal Board were stayed from the further prosecution of proceedings with reference to the claims of Chrysler Corporation employees (including the petitioners and other employees who were not included among the representative claimants) and from paying or authorizing the payment of unemployment compensation benefits to any of such employees in connection with claims filed by them during the period of the labor dispute, pending the disposition of the proceeding to review the deci-

sion of the Appeal Board (Record, Vol. I, pp. 56-7). A motion to vacate this order was filed on May 7, 1940, on behalf of the representative claimants whose claims had been allowed by the Appeal Board and by the Referee on the grounds, among others, that they were entitled to payment of benefits by virtue of the provisions of Section 34 of the Michigan Unemployment Compensation Act (quoted on page 9 of this brief) and that the Circuit Court had no jurisdiction to enter the order staying proceedings and payment of unemployment benefits (Record, Vol. I, pp. 81-7).

The Circuit Court denied the motion of the representative claimants but modified the stay order on May 24, 1940, so as to permit a redetermination by the Commission of the claims of employees, such as the petitioners, not included among the representative claimants. The order denying the motion provided specifically that payment of benefits to claimants was stayed "pending final determination by the courts" (Record, Vol. I, pp. 99-100).

The opinion of the Circuit Court on the motion to set aside the stay order (Record, Vol. I, pp. 2379-2394), fully considered the contentions of the representative claimants as to their alleged right to immediate payment of benefits under the proviso of Section 34 of the Michigan Unemployment Compensation Act. The Circuit Court concluded that the Act must be construed as recognizing the authority of the courts under the Michigan Constitution to review proceedings of administrative tribunals, and that the court had jurisdiction "to issue the writ of supersedeas, or stay order, to the end that a judicial review might be had, effectively, of the administrative order from which the appeal has been taken" (Record, Vol. V, pp. 2389-90). This decision of the Circuit Court was reviewed by the Michigan Supreme Court on a petition for a writ of mandamus to compel the Circuit Judge to vacate the order staying payment of unemployment benefits. The writ was

denied on May 21, 1941. *Smith v. Ingham Circuit Judge,* 297 Mich. 478.

In May, 1940, immediately following the modification of the stay order by the Circuit Court the claims of the petitioners had been redetermined and allowed by the Michigan Unemployment Compensation Commission (Record pp. 109, 121-4). This allowance of the claims of the petitioners was affirmed on appeal by the Referee on October 7, 1940 (Record pp. 126-142) and by the Appeal Board on February 14, 1941 (Record pp. 154-167). When the decisions of the Michigan Supreme Court, in *Chrysler Corporation v. Smith,* 297 Mich. 438, and *Smith v. Ingham Circuit Judge,* 297 Mich. 478, were issued on May 21, 1941, a proceeding was pending in the Circuit Court of Ingham County, Michigan to review the decision of the Appeal Board affirming the redetermination and allowance of the claims of the petitioners (Record p. 9). The Circuit Court thereafter rendered its decision (Record pp. 175-8) that the petitioners were disqualified for unemployment compensation benefits for the period of the labor dispute by the provisions of Section 29(d) of the Michigan Unemployment Compensation Act as construed by the Michigan Supreme Court in *Chrysler Corporation v. Smith,* 297 Mich. 438. The judgment entered by the Circuit Court on October 8, 1941 set aside the redeterminations of the claims of the petitioners, the decisions of the Referee and of the Appeal Board and any orders incorporated therein for the payment of benefits to the petitioners; denied the claims of the petitioners for unemployment compensation benefits for the period of the labor dispute; and directed the Michigan Unemployment Compensation Commission to make appropriate entries upon its records denying the claims of the petitioners in accordance with the provisions of the judgment (Record pp. 178-180).

The petitioners appealed from this judgment to the Michigan Supreme Court, seeking a reconsideration of their disqualification for benefits, notwithstanding the fact that the record was in substance the same as that before the Supreme Court on the prior appeal.* The petitioners also claimed that, regardless of the decision of the Circuit Court or of the Supreme Court as to their disqualification for benefits, they were entitled to payment under Section 34 of the Michigan Unemployment Compensation Act, despite the contrary construction given this section in the case of *Smith v. Ingham Circuit Judge,* 297 Mich. 478, and *Chrysler Corporation v. Smith,* 297 Mich. 438 (Record pp. 2-6). The Michigan Supreme Court affirmed the judgment of the Circuit Court denying the claims of the petitioners in *Chrysler Corporation v. Unemployment Compensation Commission,* 301 Mich. 351. Its decision in this latter case, which the petitioners seek to review in this Court, was that the petitioners were disqualified for benefits under Section 29(d) of the Michigan Unemployment Compensation Act, and that the Michigan Unemployment Compensation Act did not authorize the payment of benefits to the petitioners who were so disqualified (Opinion of the court in the cause below, Record pp. 182-190).

The petitioners filed a motion in the Michigan Supreme Court for the entry of a certificate and statement of that court, to which was attached a proposed certificate containing the following language (Record pp. 192-3):

> "Now, therefore, it is hereby certified and stated that in the above entitled cause claimants and appellants did assert their claim to unemployment compensation benefits by virtue of Section 34 of the

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* The record in *Chrysler Corporation v. Smith,* 297 Mich. 438, was by stipulation made a part of the record in the cause below (Record, pp. 7, 8).

> Michigan Unemployment Compensation Act (Act No. 1 of the Public Acts of 1936 extra session, as amended by Act No. 347 of the Public Acts of 1937, and by Act No. 324 of the Public Acts of 1939). That this court held said provision to be invalid on the sole ground that it was violative to the due process clause of the Fourteenth Amendment to the Constitution of the United States."

This motion by the petitioners was denied by the Michigan Supreme Court (Record p. 194).